

HENRY LANE.

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JANUARY 22, 1897.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. PARKER, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. 762.]

The Committee on Military Affairs, to whom was referred the bill (S. 762) for the relief of Henry Lane, having considered the same, report:

This is a bill already favorably reported by this committee at the Fifty-second Congress, first session (Report No. 1769), which report is hereto appended and made a part of this report.

Your committee recommend the passage of the bill.

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[House Report No. 1769, Fifty-second Congress, first session.]

The Committee on Military Affairs, having carefully considered Senate bill 654, would respectfully recommend its passage. The report of the Senate is hereby submitted and made the report of your committee.

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[Senate Report No. 562, Fifty-second Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 654) for the relief of Henry Lane, having considered the same, report as follows:

On March 1, 1863, Henry Lane, first lieutenant Company F, Thirtieth Regiment New Jersey Volunteers, was cited by publication to appear before a military commission in Washington to make defense to the charge of prolonged absence without proper authority, and failing to appear was dismissed the service, to date March 1, 1863, in special orders dated March 30, 1863.

The charge was based upon a report, dated February 3, 1863, of Lieut. Col. John J. Cladek, commanding the Thirtieth New Jersey Regiment, then in Virginia, that Lieut. Lane, sick since November 17, 1862, was left in hospital at Washington and had not been heard from since, and recommending his discharge from the service as being unfit for duty.

On the 7th of April, 1863, Lieut. Col. Cladek, commanding the regiment, reported to the Adjutant-General of the Army that Lieut. Lane rejoined the regiment February 12, 1863, and had been on duty with his regiment since that time. Lieut. Lane, about the 7th of April, 1863, received notice of his dismissal from the service for absence without leave, which seems to have been the first intimation to him that such a charge had been preferred against him. He was on duty with his regiment in the field, and had been for several weeks, when the publication was made citing him to appear to answer the charge of prolonged absence without proper authority.

The facts of this case will appear in detail from the report from the War Department and Lane's affidavit, which are printed below, and on these facts it is evident that the proposed relief should be granted.

In order that the bill may be made to conform to the facts of the case, it should be amended by striking out all after the enacting clause and inserting the following:

"That the Secretary of War be, and he is hereby, authorized and directed to revoke and set aside the special orders of the War Department dated March 30, 1863, dismissing from the service, for absence without leave, Henry Lane, late first lieutenant Company F, Thirtieth Regiment New Jersey Volunteers, to date March 1, 1863, because he was then, and for weeks before had been, on duty in the field, and to grant him an honorable discharge as of date April 7, 1863."

Your committee recommend the passage of the bill when so amended.

*Case of Henry Lane, late first lieutenant Company F, Thirtieth New Jersey Volunteers.*

RECORD AND PENSION DIVISION, December 8, 1890.

Henry Lane was enrolled September 3, 1862, and mustered in as first lieutenant Company F, Thirtieth New Jersey Volunteers, September 17, 1862, to serve nine months. On roll for September and October, 1862, he is reported present; November and December, 1862, absent, sick; January and February, 1863, present.

Hospital records show him admitted to Emory General Hospital, Washington, D. C., December 2, 1862, with catarrh, and returned to duty February 13, 1863.

Under date of February 3, 1863, from Belle Plains, Virginia, Lieut. Col. John J. Cladek, commanding regiment, reported that Lieut. Lane, sick since November 17, 1862, was left in hospital at Washington, D. C., at the time the regiment left, and had not been heard from since, and, as he was unfit for duty, recommended his discharge from the service.

This report was forwarded and approved by intermediate commanders, and on February 11, 1863, it was indorsed by the major-general commanding Army of the Potomac as follows:

"The within-named officer being, in the opinion of the regimental commander, unfit for service, it is recommended that he be mustered out of service."

On March 1, 1863, Lieut. Lane was published officially and cited to appear before a military commission then in session at Washington, D. C., to make defense to the charge of prolonged absence without proper authority, and, failing to appear within the prescribed time, was dismissed the service, to date March 1, 1863, in special orders from this Department dated March 30, 1863.

Special muster roll dated April 10, 1863, shows that the above order of dismissal was received at the regiment on April 7, 1863.

On September 1, 1890, Mr. Lane, through his attorney, made application for a revocation of the order of dismissal in his case and submitted papers, of which the following are copies:

HEADQUARTERS THIRTIETH NEW JERSEY VOLUNTEERS,  
*Near Belle Plains, Va., April 7, 1863.*

First Lieut. Lane, Company F, Thirtieth Regiment New Jersey Volunteers, was left behind sick at Emory Hospital, Washington, December 2, 1862, when the regiment was ordered away from Fort Baker to report at Aquia Creek.

He rejoined his regiment February 12, 1863, and has since that time been on duty with his regiment.

JOHN J. CLADEK, *Colonel Commanding.*

The ADJUTANT-GENERAL, U. S. ARMY.

Lieut. Lane, Company F, Thirtieth New Jersey Volunteers, reported for duty with his regiment February 12, 1863, and has since been at his post.

E. WHITAKER,  
*Lieutenant, and Acting Assistant Adjutant-General Third Brigade, First Division, First Army Corps.*

HEADQUARTERS THIRTIETH NEW JERSEY VOLUNTEERS,  
*Near Belle Plains, Va., April 16, 1863.*

SIR: Lieut. Henry Lane, Company F, of this regiment, was dismissed the service March 1, 1863, upon the charge of being absent from his regiment without leave.

Lieut. Lane was not absent without leave, but was left at Washington sick December 1, 1862 and rejoined the regiment on February 12, 1863.

Upon receiving notice of his dismissal, Lieutenant Lane proceeded to Washington and has not since returned, consequently he is dropped from the rolls of his regiment.

WILLIAM A. HENRY,  
*Adjutant Thirtieth New Jersey Volunteers.*

The ADJUTANT-GENERAL OF THE STATE OF NEW JERSEY.

The adjutant-general of the State of New Jersey certifies, under date of August 19, 1890, that the above copy of letter dated April 16, 1863, is a true transcript from the original on file in his office.

The attorney in the case, in submitting the foregoing letters, states that a great injustice has evidently been done this officer, who is now a citizen of New Jersey in excellent standing.

On September 4, 1890, the attorney was informed that it is beyond the power of this Department to afford any relief in this case, regardless of its merits, as there is no provision of law authorizing the revocation of the dismissal of an officer and the granting to him of an honorable discharge.

The case was then subsequently submitted with the following testimony:

Charles W. Lanning, late lieutenant and captain Company F, Thirtieth New Jersey Volunteers, in affidavit executed November 25, 1890, declares that he is well acquainted with Lane; that he was a good and intelligent officer, and faithful and attentive to duty; that in December, 1862, when the regiment was ordered from Camp Baker, near Washington, D. C., to Aquia Creek, Virginia, said Lane was very ill and left behind, and was sent to Emory Hospital, Washington, D. C. That he (affiant) was acting adjutant of the regiment, and when they arrived at Aquia Creek was ordered by Col. Cladek (commanding the regiment) to report said Lane "absent without leave" and he was so reported on the rolls; that on or about February 12, 1863, he rejoined the regiment, and went on duty and continued on duty until on or about April 7, 1863, when he received an order from the War Department dismissing him from the service on account of "absence without leave;" that affiant knows of his own knowledge that this order of dismissal was unjust and erroneous; that he knows of his own knowledge that said Lane was absent only through illness as aforesaid; that said Lane, at the time (April, 1863), alleged that he had duly reported his whereabouts, by letter, to the adjutant, but his said report never reached the affiant, and must have miscarried because of the changes of the regiment; that he has been greatly and cruelly wronged all these years, and that he is now an old and broken-down man.

On November 28, 1890, the attorney in the case was informed that as there is no authority of law whereby this Department can revoke the dismissal of an officer or remove a charge upon which such dismissal was based, no favorable action upon the application can be taken, and that the case of this officer is one in which Congress alone can afford relief.

Respectfully submitted.

F. C. AINSWORTH,  
*Captain and Assistant Surgeon, U. S. Army.*

THE SECRETARY OF WAR.

#### *General affidavit.*

STATE OF NEW JERSEY, *County of Somerset, ss:*

In the matter of Henry Lane, first lieutenant, F, Thirtieth New Jersey Infantry, removal of dismissal (S. 654).

Personally came before me, a justice of the peace in and for aforesaid county and State, said Henry Lane, citizen of the town of Neshanic, county of Somerset, State of New Jersey, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows: That he was mustered into the said service September 2, 1862, and continued on duty with his company until December 2, 1862, when the regiment was ordered to Aquia Creek, Va., and he was left behind sick at Emory Hospital, Washington, D. C. (see letter of Col. J. J. Cladek, of his regiment, dated April 7, 1863, filed in War Department November 21, 1890, by J. F. Rusling); that he rejoined his regiment February 12, 1863, near Belle Plain, Va., and continued on duty with it until on or about April 7, 1863, when he was surprised to receive Special Order No. 146, War Department, March 30, 1863, dismissing him for "prolonged absence without proper authority;" that he proceeded to Washington, D. C., and sought to have this unjust and erroneous order corrected then, but failed because of his ignorance and inexperience of such matters; that he then proceeded to his home in New Jersey, and shortly after placed his case in the hands of Henry Herder, esq., an attorney at Somerville, N. J., with letters and certificates of the facts from Col. Cladek and other officers of his regiment, but Mr. Herder soon afterwards died, and said papers were lost or mislaid; that he made other efforts through Capt. C. H. Kibbe, of New Brunswick, N. J., and others for restoration between 1863 and 1880, but they availed nothing; that in 1880 he placed his case in the hands of James F. Rusling, of Trenton, N. J., and he filed same with War Department November 11, 1880, but the Department refused to act favorably;

that in 1890 the said papers given to Mr. Herder were accidentally discovered and returned to him, and November 21, 1890, he submitted same to War Department through said Rusling, but again the Department declared its inability to correct said erroneous dismissal, and that in consequence thereof, by advice of said Rusling, he submitted his case to Congress for relief by Senate bill 4461 (1890) and now again by Senate bill 654, and prays for speedy and favorable action, and that said Col. John J. Cladek is now deceased.

HENRY LANE, *Neshanic Station, N. J.*

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me, that he is a credible person, and so reputed in the community in which he resides.

Witness my hand and official seal this 26th day of March, 1892.

D. EVAN THOMAS, *Justice of the Peace.*